



The international association for non-profit publishers  
*Shaping the Future of Learned and Professional Publishing*

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Association of Research Libraries

Attention: Kaylyn Groves  
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We read with interest and some concern the ARL paper entitled “PubMed Central Deposit and Author Rights — Agreements between 12 Publishers and the Authors Subject to the NIH Public Access Policy”, by Ben Grillot and published by ARL in August 2008. The article starts with a premise that, prior to the new mandatory NIH Public Access policy,

some publishers of scientific, technological, and medical research were using publication agreements that did not permit authors to retain the rights they needed to submit their works to a funder-designated repository.

There is no reference for this comment and our associations have a very different view as to the work that publishers have done to accommodate the various needs and concerns of scholarly authors, including compliance with NIH posting policies. Many publishers had already put into place procedures to accommodate PMC deposit or access for NIH-funded articles long before the mandatory implementation. Practices and procedures do differ amongst publishers, of course, and our associations have always been and still are critical of the NIH policy, although not its overarching objectives<sup>1</sup>.

We refer ARL and the author to our comments and position papers on the question of scholarly uses (including posting), for example to the June 2006 open letter to MIT with

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<sup>1</sup> AAP letter to Dr. Elias Zerhouni Re: NIH Notice on Public Meeting, March 17, 2008, see [http://www.pspcentral.org/commPublicAffairs/attachPubAff-PubIss/Zerhouni\\_letter\\_3-2008.pdf](http://www.pspcentral.org/commPublicAffairs/attachPubAff-PubIss/Zerhouni_letter_3-2008.pdf), STM position on NIH Open Access Policy 2004, see <http://www.stm-assoc.org/documents-statements-public-co/2003-2007-documents-statements-public-correspondence/2004-documents-statements-public-correspondence/12-04%20stm%20pos.%20nih%20oa.pdf>; STM Comments on NIH Unfunded Mandate, January 2008, see <http://www.stm-assoc.org/press-releases/2008%20Press%20Release%20STM%20Stmnt%20on%20NIH%20Mandatory%2020070104.pdf>

respect to publishing agreement addendum and NIH policy<sup>2</sup>, and the March 2008 “Statement on journal publishing agreements and copyright agreement “addenda”<sup>3</sup> which notes that most scholarly publishers provide for significant educational and posting rights.

It is also troubling to us that misleading statements and mistakes have been made in the ARL paper in characterizing the publishing agreements identified in the paper and its tables. We provide below some examples.

With respect to the American Chemical Society, the article states “...the only way the publisher will deposit its version into PMC is for the author to pay for immediate access.” This statement is incorrect and was incorrect well in advance of the date the article asserts that “all documents were examined.” At multiple locations on its website ACS posted its policy that, upon request, ACS will submit the final peer-reviewed manuscript version to the NIH Manuscript Submission system on behalf of authors, after editorial acceptance by an ACS journal, for public availability 12 months after publication, and further, that this publishing service is provided free of charge to ACS members.

In table 3, the chart that identifies “sharing rights,” several mistakes are made with respect to Elsevier journal publishing agreements and policies. Elsevier’s agreements permit the posting by an author of a Preprint or an Accepted Version on an author’s personal web site and to an IR. It is not clear to us what is meant by the chart’s reference to a “disciplinary Web site” (pre-print server?).

Our associations do appreciate that practices and procedures amongst publishers will vary – publishers are after all competing with each other to offer the best services to authors and readers that we can. We also agree it is useful to highlight and review practices and we do appreciate the acknowledgement in the paper that publishers review their practices. It is important however to be as accurate as possible, and to recognize that publishers are in fact always engaged in feedback from authors concerning publishing agreements and author rights. We believe that a balance must be struck between scholarly use and publishing rights (note our May 2007 collective statement “Author and Publisher Rights for Academic Use: An Appropriate Balance”<sup>4</sup>), and that the right balance will need adjusting over time. It does seem to us, however, that there are often significant incorrect assumptions set out in the ARL paper, and that in fact the vast majority of journal publishing agreements provide for significant scholarly use.

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<sup>2</sup> <http://www.stm-assoc.org/documents-statements-public-co/2003-2007-documents-statements-public-correspondence/2006-documents-statements-public-correspondence/stm-alpsp-mit.pdf>

<sup>3</sup> <http://www.stm-assoc.org/documents-statements-public-co/2008-03%20STM-PSP-ALPSP%20Statement%20Publishing%20Agreements%2020080310.pdf>

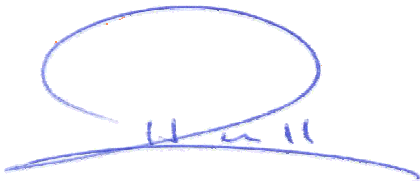
<sup>4</sup> [http://www.stm-processing.org/Author\\_Publisher\\_Rights.php](http://www.stm-processing.org/Author_Publisher_Rights.php)

A handwritten signature in black ink, appearing to read "Michael A Mabe". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael A Mabe, *Chief Executive Officer, STM*

A handwritten signature in purple ink, appearing to read "John Tagler". The signature is cursive and includes a large, stylized initial "J".

John Tagler, *Executive Director PSP-AAP*

A handwritten signature in blue ink, appearing to read "Ian Russell". The signature is cursive and features a large, prominent loop at the top.

Ian Russell, *Chief Executive, ALPSP*